No. 99 817 JUL 12 1999

OFFICE OF THE CLERK

In The

Supreme Court of the United States

October Term 1999

IN RE: WILLIAM COY ARNETT,

Petitioner,

vs.

UNITED STATES OF AMERICA,
National Highway Traffic Safety Administration,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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PRO SE
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QUESTIONS PRESENTED

1. Whether I, William Coy Arnett, have standing or the right to file suit challenging the constitutionality of an egregiously wrong statute.

2. Whether the Supreme Court has jurisdiction over the subject matter of this action which also seeks to invalidate a promulgated federal motor vehicle standard where judicial review of those regulations is committed by statute exclusively to the Court of Appeals, and can stop the air bag juggernaut.

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I, William Coy Arnett, respectfully petition for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit in this case.

OPINIONS BELOW

The decision of the United State Court of Appeals for the Sixth Circuit was rendered on April 23, 1999. This case was not reported as of June 7, 1999.

STATEMENT OF JURISDICTION

The jurisdiction of this Court is involked pursuant to Title 28 U.S.C. § 1254 (1). This petition has been filed within ninety days of April 23, 1999, the date on which the Court of appeals for the Sixth Circuit affirmed the district courts dismissal of this suit on grounds that I lacked standing to pursue this claim and the district court lacked authority to issue the requested orders. I did not request a rehearing as I filed suit originally to seek access to this Court.

STATEMENT OF THE CASE

This case arises out of my inability to get government officials, members of congress, or members of the news media to report the truth about air bags - they are not effective, and do not meet the need for motor vehicle safety as required by Title 49 U.S.C. § 30111 (a).

I filed suit, pro se, on July 11, 1997 requesting that the district court declare Title 49 U.S.C. § 30127, which requires automobile manufacturers to install air bags in vehicles, and Title 49 U.S.C. § 30122, which prohibits repair shops from making safety devices inoperable, unconstitutional as related to air bags, as a violation of Amendment V of the Constitution of the United States as the devices are not only not effective, but they are inherently dangerous.

I also requested that an order be issued requiring all manufacturers of vehicles to immediately stop installing inflatable restraints or air bags in their vehicles and an order directing them to recall all vehicles with frontal air bags. There have been more than 50 million frontal air bags installed in vehicles since this suit was filed. I also requested that a special prosecutor be appointed to investigate why officials at NHTSA took action to protect the interests of the Air Bag Cabal instead of the American motorists.

REASONS FOR GRANTING THE WRIT

This suit was filed only after about seven years of collecting data which shows that air bags are not effective - and it was common knowledge that they are killing and injuring motorists. The Court of Appeals for the Sixth Circuit affirmed the lower court's dismissal of this suit on the grounds that I have no right (standing) to bring this action. I have now purchased two automobiles which are equipped with driver and passenger air bags at a cost of about $1,000 each vehicle for the air bags. I can not enter a vehicle equipped with an air bag feeling secure that the device will not deploy thereby injuring or even killing me. I have had my head within three or four inches of the air bag on more than one occasion. It is ludicrous to me that the attorneys for NHTSA claim I have no right to bring this suit because I have not been injured (or killed).

Lives are at stake, and I could find no other way to attempt to stop the air bag juggernaut.

Would I not have a right to bring suit if a business man installed a booby trap at the door of business I frequent? Air bags are very closely related to booby traps and I do not believe any court would deny me the right to attempt to force removal of a booby trap.

This is an extraordinary petition requesting an extraordinary writ under provisions of Rule 20 and 28 U.S. C. § 1651 (a). The air bag juggernaut must be stopped and the officials at NHTSA have not shown any propensity to act in the best interests of the American motorists.

The air bag proponents, whether intentionally or inadvertently, have made claims for the air bags which are not true. They have deceived the courts as well as the American people.

They told this Court in Motor Vehicle Manufacturers Assn. v State Farm Mutual Insurance Company in 463 U.S. 35 that

> The lifesaving potential of these devices was immediately recognized, and in 1977, after substantial on-the-road experience with both devices, it was estimated by NHTSA that passive restraints could prevent approximately 12,000 deaths and over 100,000 serious injuries annually.
> 42 Fed. Reg. 34298.

Similarly at 463 U.S. 38

> "When all cars are equipped with automatic crash protection systems, each year an estimated 9,000 more lives will be saved, and tens of thousands of serious injuries will be prevented", NHTSA, Automobile Occupant Crash Protection, Progress Report No. 3, p. 4; App. in No. 81-2220 (CADC), p. 1627.

Data from Fatality Facts, published by the Insurance Institute for Highway Safety from data supplied in part by the Department of Transportation, shows that frontal impacts accounted for 51 percent of passenger vehicle deaths in 1989 and 1992 thru 1997. Since there were 32, 073 reported passenger vehicle fatalities in 1997, a drop of 1 percent (to 50%) would have meant that only about 320 lives had been saved by the something like 80 million frontal air bags plus greater usage of seat belts.

I have copies of letters from an official at NHTSA dated 1991 and June 3, 1994 which lowered the claimed number of lives which air bags will save once all vehicles are so equipped to 6,190 and 2,840 respectively. These letters were in response to my letters to a Senator in which I showed that air bags were not meeting the claims of the proponents. They now have at least 4 more years of data which if extrapolated would lower the 2,840 number to less than 1,000. This is a mere 3 percent of the some 32,000 motorists killed annually in passenger vehicles.

Would you agree to buy a pseudo safety device which could kill you but offer less than a 5 percent chance of saving your life? You, I, and the American people have no choice if we buy a new automobile or one of the something like 80 million used ones thanks to the law and rules which prompted this suit. Similarly, a repair shop is not permitted to disarm the air bag for those who know that they are hazardous and can be deadly because of Title 49 U.S.C. § 30127.

In State Farm Mutual Auto. Ins. v Department of Transportation, 680 Federal Reporter, 2d Series 224, we find:

> At 33,330 (Senator Baker) (Supporting standard because there is ample evidence indicating that air bags are effective in preventing injuries, that they would save thousands of lives and prevent many more injuries annually if installed on all cars, and that they are not hazardous.)

First, air bags are hazardous and they have not, and will not, save thousands of lives. Air bags are inherently dangerous. Officials at NHTSA were admitting that air bags had killed about 60 motorists in early 1997. The number was reportedly about 120 in early 1999 - a 100 percent increase in about 2 years. I believe many more motorists are being killed by air bags in crashes of about 10 to 35 miles per hour, but the deaths are being attributed to "the accident".

Officials at NHTSA reportedly claimed that air bags saved about 1,700 lives from 1986 thru 1996. More than 425,000 motorists lost their lives during that period with about 318,000 of them being in passenger vehicles. They reportedly claimed in early 1999 that air bags had saved 3,625 lives. This means they are claiming that air bags saved about 1,900 lives in 1997 and 1998. Since air bags did not save 320 lives in 1997 according to data from Fatality Facts, there is no way they saved close to 1,500 lives in 1998. The officials at NHTSA apparently are not concerned with the accuracy of their claims.

Government officials recorded more than 300,000 air bag related injuries in 1995 alone according to a June 1997 newspaper article. While most of the injuries were minor, about 6,000 were moderate to serious or fatal.

Passenger vehicle fatalities were 29, 457 motorists in 1992 and 32, 073 in 1997 - an 8 percent increase. There were more than 80,000,000 more frontal air bags in vehicles in 1997 than in 1992. Where are all of those lives which are claimed to have been saved by air bags showing up? Except in estimates which are based on false assumptions.

The attorneys for NHTSA states in the Defendant-Appellees brief that NHTSA has undertaken several rule making actions to address injuries and deaths due to air bags. One rule requires vehicle manufacturers to place air bag warning labels in the vehicle cabin. This is an admission that they know that air bags are hazardous!

Any device, whether claimed to be a safety device or otherwise, dangerous enough to require a WARNING LABEL is too dangerous to be installed in the occupant cabin of a motor vehicle.

The Occupational Safety and Health Administration would not permit an air bag in a workplace especially in a confined space like the occupant cabin of a motor vehicle. The Consumers Product Safety Commission would have ordered a recall as early as July 1996 when USA Today reported that air bags can be deadly. NHTSA, however, merely blames the motorists - they are female and short, did not use their seat belts, were small children , were passengers in the front seat - and issues more rules.

Justice Rehnquist wrote in Motor Vehicle Manufacturers Association v State Farm Mutual Insurance Company, 463 U.S. 58, that:

> The statute that requires the Secretary of Transportation to issue motor vehicle safety standards also requires that "(e)ach such---standard shall be practical (and) shall meet the need for motor vehicle safety." 15 U.S.C. § 1392 (a) (1976 ed., Supp. V).

Air bags clearly do not meet the need for motor vehicle safety! While 15 U.S. C. § 1392 (a) has been repealed, it was replaced by Title 49 § 30111 (a) which reads in part, --- "meet the need for motor vehicle safety ---".

The air bag proponents have made numerous proposals for air bags to be located in various positions in automobile cabins. Some manufacturers are installing side impact air bags in the sides of their vehicles. What would you think of someone who tried to convince you that if a 2 inch air bag exploded from a boxing glove upon impact with an opponents head the blow would be less severe? That is the same thing I think of anyone who tries to convince me that a side impact air bag is beneficial.

A vehicle traveling at a mere 15 miles per hour goes 2.2 feet in one tenth of a second. The occupant is hit simultaneously by the door and the force of the air bag. Side impact air bags are detrimental. Why the members of the Society of Automobile Engineers do not understand this is beyond my comprehension.

The attorneys at NHTSA have cited numerous cases to show that I have no right (standing) to bring this action. I was not able to find case law to support my position, however, morally they are in quicksand while I am on bedrock in this matter.

The Sixth Circuit Court of Appeals cited Connection Distributing Co. v Reno, 154 F 3d 281, 295; Barrus v Sylvania, 55 F 3d 468, 469; and Hackford v Babbitt 14 F 3d 1457, 1465 to show that I did not have standing because I did not allege and prove a distinct and palpable injury. These cases were not even similar to this case which is an attempt to stop the injuries and killing of innocent motorists.

They also cited Steel Co. v Citizens for a Better Environment, 523 U.S. 83, ___, 118 S. Ct. 1003, 1016-18 (1998). This case was regarding the failure of a company to timely report emissions. Would the outcome have been the same if those emissions had been killing citizens who lived near the plant? I certainly hope not.

Two air bag equipped Chrysler LeBaron cars reportedly crashed in March 1990 in Culpeper County, Virginia. The news media reported that the air bags saved the drivers' lives. Subsequently, a television commercial at first showing a photograph of the smashed cars, was run frequently for several months claiming an air bag will save your life.

An air bag proponent sent a copy of a newspaper article, which included a photograph of the damaged cars, to me as evidence of the effectiveness of air bags. The photograph showed clear indications that the crash was staged. I wrote a letter stating that it was no accident and sent it to my representatives in congress. Representative Carroll Hubbard sent my letter to NHTSA for their response.

An official at NHTSA wrote on June 10,1991 that, "The Television commercial, which showed an offset frontal car-to-car crash, was staged to demonstrate a Chrysler driver restraint system. That particular system consists of manually fastened lap and shoulder belts supplemented by an air bag. This staged crash employed stunt drivers."

The crash in March 1990 was staged and the officials at NHTSA knew it even if they did not participate. The purpose was to deceive the American motorists if not congress and the courts.

I stopped writing letters in opposition to air bags in 1991 when an official at NHTSA wrote that they had lowered the number of lives the believed air bags would save annually to 6,190. I started again in 1993 when I heard an air bag proponent proclaim that air bags saved so many lives in 1992 that <u>we</u> are now going to put air bags in sides of cars.

The number of air bags equipped cars was relatively small in 1992 and I soon had evidence in the form of <u>Fatality Facts</u> which showed that few, if any, lives had been saved by air bags that year.

Attorneys for the Department of Justice should have filed amicus curise briefs in support of my attempt to correct this wrong. However. instead, I was arrested by an employee of the Department of Justice (FBI) and incarcerated for almost 7 1/2 months. Other employees of the Department of Justice (Marshals and Bureau of Prison personnel) harassed me.

CONCLUSION

Air bags are not effective, are injuring and killing motorists, and have been promoted by fraud, deceit and deception. If the writer of the news article which stated that there were about 300,000, injuries recorded in 1995 alone was correct, there have now been more than 1 million physical injuries caused by air bags. While most of the injuries were minor, about 20,000 of them wre moderate, serious, or fatal.

Data from Fatality Facts shows that air bags are not saving thousands of lives as claimed by officials at NHTSA and other air bag proponents. The officials at NHTSA refuse to tell the American people the truth.

Congress had a right to enact the air bag mandates, however, they now have a duty and obligation to repeal the mandates. I have not heard of any thing which would indicate that they plan to do so.

Therefore, this Court must issue a writ of certiorari and a writ of mandamus to stop the air bag juggernaut.

Respectfully submitted

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Copies of this petition will be sent by certified mail to the attorneys at The National Highway Traffic Safety Administration and the Solicitor General of the United States.

No. 98-5198

UNITED SATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

WILLIAM COY ARNETT,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	
	)	
UNITED STATES OF AMERICA; THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,	)	ORDER
	)	
	)	
Defendants-Appellees.	)	

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

Sixth Circuit Rule 206 limits citation to specific situations. Please see Rule 206 before citing in a proceeding in a court in the Sixth Circuit. If cited, a coy must be served on other parties and the Court. This notice is to be prominently displayed if this decision is reproduced.

Before: SILER and MOORE, Circuit Judge; SMITH, District Judge.*

William Coy Arnett, proceeding pro se, appeals a district court judgment dismissing his civil rights complaint filed pursuant to 42 U.S.C. § 1983. This case has been referred to a panel of the court pursuant to Rule 34(j)(1), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

---

*The Honorable George C. Smith, United States District Judge for the Southern District of Ohio, sitting by designation.

Seeking declaratory relief, Arnett filed a complaint against the United States of America and the National Highway Traffic Safety Administration (NHTSA), alleging that the defendants violated his due process rights by passing laws requiring that automobile manufacturers install air bags in their vehicles. Arnett argued that air bags are responsible for the injury and deaths of numberous motorists, and he requested that: 1) the district court issue orders declaring such laws unconstitutional; 2) the district court issue orders prohibiting automobile manufacturers from installing air bags in their vehicles, and requiring the manufacturers to recall all vehicles with air bags in order to deactivate the air bags; and 3) the district court issue an order appointing an independent counsel to investigate the activity of the NHTSA. Upon review, the district court granted the defendants' motion to dismiss because Arnett lacked standing to pursue his claim; the court also noted that it lacked authority to issue the requested orders. Arnett has filed a timely appeal, essentially reasserting his claim.

Initially, we note that Arnett attempted to file this complaint on behalf of seven deceased individuals, as well as himself. However, he has not presented any documents idicating that he has authority to file the complaint on behalf of the named individuals. *See Connection Distrib. Co. v. Reno,* 154 F. 3d 281, 295 (6th Cir. 1998) (generally a party may not assert rights or interests of third parties). Hence, the district court properly construed the complaint as filed only on Arnett's behalf.

Upon review, we conclude that the district court properly dismissed Arnett's complaint for the reasons stated in its memorandum opinion filed on January 16, 1998. *See Barrus v. Sylvania*, 55 F. 3d 468, 469 (9th Cir. 1995); *Hackford v. Babbitt,* 14 F. 3d 1457, 1465 (10th Cir. 1994). A review of the record reflects that Arnett lacks standing to pursue his claim because he did not allege and prove a distinct and palpable injury, he did not establish that his alleged injury is fairly traceable to the defendants' conduct, and he did not establish that there is a substantial probability that his

claimed injury would be redressed by his requested relief. *See Steel Co. v. Citizens for a Better Env't*, 523 U.S 83,___, 118 S. Ct. 1003, 1016-18 (1998).

Accordingly, we affirm the district court's judgment. Rule 34(j)(2)(C), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

Clerk

Supreme Court, U.S.
FILED

99 317 JUL 12 1999

OFFICE OF THE CLERK

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National Highway Traffic Safety Administration,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

WILLIAM COY ARNETT, ET AL. PLAINTIFFS

vs. CIVIL ACTION NO. 5:97CV-172-R

UNITED STATES OF AMERICA DEFENDANT

MEMORANDUM OPINION

Plaintiff, William Coy Arnett, filed a pro se action on behalf of himself and seven other deceased individuals.[1] The suit concerns disagreements between Arnett and the National Highway Traffic Safety Administration (agency) of the United States Department of Transportation. The United States filed a motion to dismiss under Federal Rule of Civil Procedure 12.

I.

Arnett filed the instant action claiming that air bags, installed in motor vehicles pursuant to 49 U.S.C. § 30127 and/or Federal Motor Vehicle Safety Standard 208 or "other rules promulgated by the National Highway Traffic Safety Administration, are responsible for injury and death suffered by numerous motorists. He assigns liability for these deaths and injuries to the agency. Arnett claims that the statute, standards or rules violates his rights under the Fifth Amendment to the United States Constitution, *i.e.*, deprivation of life without due process of law.

Arnett requests issuance of several orders. First he seeks declaration that 49 U.S.C. §§ 30122 and 30127, Federal Motor Vehicle Safety Standard 208 and other agency rules or statutes are

[1]Nothing in the complaint demonstrates Arnett's authority to file the instant action on behalf of the deceased plaintiffs' estates. The suit, therefore, is considered to be filed only by Arnett as an individual plaintiff.

unconstitutional and violative of his rights under the Fifth Amendment. Second, he asks this Court to issue orders to all car manufacturers directing them to refrain from installing inflatable restraints or air bags in newly manufactured vehicles as well as recalling all previously manufactured vehicles for the purpose of removing the restraints / air bags. Finally, he seeks an order directing appointment of a special prosecutor to investigate the agency's actions regarding air bags.

II.

The United States filed a motion to dismiss. The United States contends that this Court lacks subject matter jurisdiction over the instant action. Arnett responded to the motion to dismiss. For the reasons that follow, the motion to dismiss will be **GRANTED**.

In essence, Arnett seeks a declaration from this Court that the federal statutes, rules and regulations concerning installation of air bags are unconstitutional. In support of this claim, he contends that the statutes, rules and regulations cause the deprivation of life without due process of law in violation of the Fifth Amendment to the United States Constitution.

Standing

Article III,§ 2 of the United States Constitution limits the jurisdiction of federal courts to a dispute only if it is a "case" or "controversy." This is a "bedrock requirement." *Raines v. Byrde*, 117 S. Ct. 2312, 2317 (1997)(citing *Valley Forge Christian College v. Americans United for Separation of Church & State, Inc.*, 454 U. S. 464, 471 (1982). "No principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies." *Id.* (quoting, *Simon v. Eastern Ky. Welfare Rights Organization*, 426 U. S. 26, 37 (1976)).

One element of the case or controversy requirement is that the plaintiff, based on his complaint, must establish that he has stand-

ing to sue. Id. (citing *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 561 (1992)). The inquiry focuses on whether the plaintiff is the proper party to bring the suit and "often turns on the nature and source of the claim asserted." *Id.* (citations omitted) To meet the standing requirements of Article III, "[a] plaintiff must allege personal injury fairly traceable to the defendant's unlawful conduct and likely to be redressed by the requested relief." *Id.*, (quoting *Allen v. Wright*, 468 U.S. 737, 751 (1984)). A plaintiff must establish that he has a "personal stake" in the alleged dispute, and that the alleged injury suffered is particularized as to him. *Id.* (citing *Lujan*, 504 U. S. at 560-61 and n. 1)(to have standing, the plaintiff must have suffered a "particularized" injury, which means that "the injury must affect the plaintiff in a personal and individual way"); *Bender v. Williamsport Area School Dist.*, 475 U. S. 534, 543-544 (1986); *Simon*, 426 U.S. at 39).

Plaintiff must also demonstrate that the alleged injury is legally and judicially cognizable. *Id.* Among other things, plaintiff must show that he suffered "an invasion of a legally protected interest which is . . . concrete and particularized." *Id.* (quoting *Lujan*, 504 U. S. at 560). Additionally, the dispute must be "traditionally thought to be capable of resolution through the judicial process." *Id.* (quoting *Flast v. Cohen*, 392 U. S. 83, 97 (1968)). "Is the injury too abstract, or otherwise not appropriate, to be considered judicially cognizable?" *Id.* (quoting *Allen*, 468 U.S. at 752).

The Supreme Court has always insisted on strict compliance with the jurisdictional standing requirement. *Id.* (citations omitted). The standing inquiry should be "especially rigorous" when reaching the merits of the dispute would force the court to decide whether an action taken by one of the other two branches of the Federal Government was unconstitutional. *Id.* at 2317-18. Before addressing the merits of plaintiff's allegations, this Court must carefully inquire as to whether plaintiff has met his burden of establishing that the claimed injury is personal, particularized, concrete, and otherwise judicially cognizable. *Id.*

at 2318.

Careful consideration of the allegations set forth in the complaint reveals that plaintiff has failed to demonstrate standing to bring the instant action. The agency correctly notes that the only harm asserted by plaintiff is the threat of future harm. Specifically, he claims that his inability to have the air bag in his vehicle deactivated or removed by an automobile mechanic places him at risk to be deprived of "life, liberty and property without due process of law." Plaintiff further claims awareness of "the possible dire consequences" of having the air bags remain in his car. However, in order to reach the perceived harm, one must assume the following: (a) plaintiff will be involved in an automobile accident; (b) the accident will cause the air bags(s) to deploy; and (c) deployment of the air bag(s) will result in physical harm to plaintiff. The alleged deprivation in indeed speculative.

Plaintiff has not demonstrated a prior or existing harm. The sole basis of his complaint rests on the threat of possible future harm. He has failed to show that the perceived harm will ever occur and, therefore, the alleged deprivation is not judicially cognizable. *See City of Los Angeles v. Lyons*, 461 U. S. 95, 102-105 (1983); *Johnson v. Turner*, 125 F. 3d 324, 336 (6th Cir. 1997). Thus, he lacks standing to bring the instant action.

Plaintiff is not completely without remedy. He may, through his own action, deactivate the air bags in his own vehicle. The agency correctly notes that the "make inoperative" provision at issue in plaintiff's complaint, 49 U.S.C. § 30122, applies only to commercial entities. It is not directed to vehicle owners or their personal conduct.

Injunctive relief

Plaintiff has requested relief beyond the bounds of this Court's authority. The Court cannot and will not issue orders to corporations who not parties to the instant suit. The Court has no authority over such entities. Furthermore, the Court cannot issue orders directing the violation of federal statutes, rules and/or regulations.

Finally, the Court is without authority to appoint independent counsel, characterized by plaintiff as a "special prosecutor." Chapter 40 of United States Code Title 28 governs independent counsel. *See* 28 U.S.C. §§ 591, *et seq.* The Attorney General of the United States is charged with the responsibility of investigating whether an independent counsel should be appointed. 28 U.S.C. § 591. The circumstances under which counsel may be appointed are limited. *Id.* While the statutory scheme regarding independent counsel includes provisions for court action, nothing in the statute vests this particular Court with any authority over the matter. *See* 28 U.S.C. § 593.

Conclusion

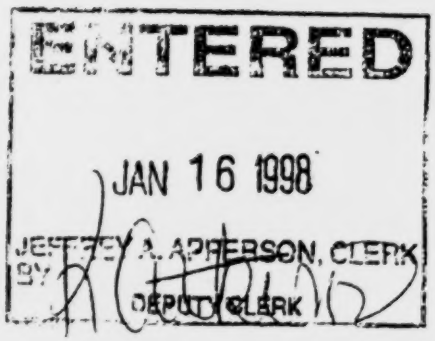
For the reasons set forth more fully above, the motion to dismiss will be **GRANTED** and the action **DISMISSED** by separate order for lack of jurisdiction.

This 15 day of January , 1998.

THOMAS B. RUSSELL
UNITED STATES DISTRICT JUDGE

cc: Plaintiff, *pro se*
Counsel

4413.001



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

WILLIAM COY ARNETT, ET AL. PLAINTIFFS

vs. CIVIL ACTION NO. 5:97CV-172-R

UNITED STATES OF AMERICA DEFENDANT

ORDER

For the reasons set forth in the Memorandum Opinion entered this date, **IT IS ORDERED** that the United States' motion to dismiss is **GRANTED** and the instant action is **DISMISSED** for lack of jurisdiction.

There being no just reason for delay in its entry, this is a final Order.

This 15 day of January, 1998.

THOMAS B. RUSSELL
UNITED STATES DISTRICT JUDGE

cc: Plaintiff, *pro se*
Counsel

4413.001

ENTERED
JAN 16 1998
JEFFREY A. APPERSON, CLERK
BY DEPUTY CLERK